

# Procurement Policy

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<b>Policy Title</b>	Procurement Policy
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<b>Link to Community Strategic Plan</b>	12 Well Governed Federation (5.3) Ensure good governance and administration; (5.6) Operational efficiency and effectiveness to ensure a resilient and responsive organisation.
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# 1. Purpose

The purpose of this Procurement Policy is to:

- a) Provide guidance to the Council to allow consistency and control over Procurement activities and effective management of outgoing expenditure with contracted third parties;
- b) Demonstrate accountability, governance and innovation to the ratepayers of Federation Council and;
- c) Provide guidance to the application of best practice and continuous improvement in Council Procurement; Increase the probity and transparency of obtaining the right outcome when purchasing goods and services.

This Policy will support Council's Community Strategic Plan and Delivery Program 2018-2021 and the aims and objectives contained therein, including, a commitment to best value outcomes relating to sustainability, environment, social responsibility and the needs of its local and regional community.

## 2. Background

Council is instructed under Section 55 of the Local Government Act 1993 (NSW) and Local Government (General) Regulation 2005 to ensure that all contracts are established following a full process compliant with the Tendering Guidelines for NSW Local Government 2009.

Federation Council is committed to formally adopt this revised Procurement Policy, to review annually and make available for public inspection.

## 3. Scope

The General Manager is responsible for the delegation of functions to accountable officers of Council.

This policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council Staff and temporary employees, contractors and consultants while engaged by the Council.

## 4. Policy Statement

The Federation Council is committed to achieving a strategic balance between the following objectives:

### 4.1 Open and Fair Competition:

Council will treat all prospective suppliers/vendors in the same manner without any bias or perception of bias.

All Council representatives in line with Council's Code of Conduct and Disclosure of information Procedures will maintain at confidentiality of information provided by existing and prospective suppliers all times.

### 4.2 Value for Money:

Council's procurement activities will be carried out on the key objective of fully obtaining Value for Money for ratepayer dollar. Purchase of all goods, services, works and assets should represent the optimum combination of quality, risk, technical expertise, Local and community benefit and timeliness and should be determined on a whole of contract, whole of life basis.

This will be facilitated by:

- Planning, developing, implementing and managing procurement strategies that support the coordination and value activities throughout the life cycle;
- Using aggregated contracts and standard offer arrangements where suitable and cost effective to do so and;
- Working with suppliers to create relationships that are professional, productive and transparent;

### **4.3 Local and Community, Environmental and Social Commitment:**

Council is committed to contributing to local and community economic development, social and sustainability outcomes through its procurement processes. Council will consider selection of products or services that maximise these outcomes provided other evaluation criteria be met.

Council recognises the positive impact on local communities, encouraging regional and local firms to grow and innovate, and where possible to generate employment and social inclusion opportunities. Council will seek to consider all opportunities for local and suppliers to sell to Council and consider local considerations providing best value provided other evaluation criteria be met.

#### **4.3.1 Maximising Local and Community Participation and Small to Medium Enterprises (SME)**

Council is committed to buying from local business where such purchases may be justified on value for money grounds and when the benefit is identifiable and reasonable.

Council recognises the positive impact on local communities, encouraging regional and local firms to grow and to generate employment opportunities.

Council will commit to the following in the sourcing of goods, services and Works as follows in its all levels of its procurement processes:

##### **4.3.1.1 Local Preference Tier System**

- For Procurement Up to \$5,000.00: Local suppliers used will be used where possible and where 'best value' principles can be demonstrated;
- For Procurement from \$5,000.00 to \$25,000.00: Local suppliers given 5% price concession and;
- For Procurement from \$25,000 - \$150,000.00: local suppliers given 2.5% price concession.

##### **4.3.1.2 Local and Community Evaluation Weighting Criteria for purchases over \$150,000.00**

For Procurement of Goods, Services or Works for over \$150,000.00 (or other amounts at the discretion of Council), Local and Community criteria will form part of the assessment to the value 10% in the tender evaluation.

#### **4.3.2 Environment**

Council will consider the potential environmental impact of its purchases when specifying and evaluating goods and services.

#### **4.3.3 Social**

Council will, where practical, prepare specifications and/or select purchases that reduce or avoid human rights breaches, and seek the benefits and social procurement including but not limited to inclusion of indigenous, multicultural, disability and not for profit organisations.

## 4.4 Risk Management

The provision of goods, services and works by contract potentially exposes Council to risk.

Risk Management is to be appropriately applied at all stages of procurement activities. Procurement at all levels will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works as defined in Council's Risk Management Framework.

## 4.5 Compliance and Control

Council will implement Policies and Procedures to ensure the following:

### 4.5.1 Ethics and Probity

Council will maintain procedures and training to conduct its business in a fair, honest and open manner, demonstrating high levels of integrity consistent with the public interest.

### 4.5.2 Conduct of Councillors, Council Officials and Volunteers

Councillors, Council officers and volunteers shall at all times conduct themselves in ways that are, and are perceived to be, of the highest integrity and will avoid conflicts of interest and improper use of an individual's position and act in accordance with Council's Code of Conduct at all times.

### 4.5.3 Accountability and Transparency

Accountability in procurement means providing evidence on the process followed and the rationale for decisions taken. The test of accountability is that an independent third party must be able to see clearly that a transparent process has been followed and that process is fair and reasonable.

### 4.5.4 Conduct of Tenderers

Tenderers are expected at all times to conduct themselves in ways that are, and are perceived as to be, ethical and of the highest integrity and will present to the highest standards of probity.

### 4.5.5 Tender Processes

Council will conduct all procurement practices in accordance with the requirements of this policy and relevant Australian Standards, the Act and Regulations. This may include the requirement of probity advisors, legal expertise, or Council Approval.

### 4.5.6 Disclosure of Information

Procurement activities will be carried out in a manner that supports Council Officers in meeting their obligations to ensure information of a commercially sensitive or confidential nature is obtained, recorded, processed, published (where applicable) in an appropriate manner in accordance with the relevant Council privacy and Commercial in confidence procedures.

Council will maintain a Contracts Register for Procurement activity over \$150,000.00 (GST Inclusive) in conformance to the Government Information (Public Access) Act 2009, (GIPA) on its website for public information.

## 4.6 Governance

### 4.6.1 Structure

Council will ensure a procurement management responsibility structure and delegations to ensure accountability, traceability and audit of all procurement decisions. A Council Officer under the delegations of Council will conduct all procurement authority, ordering, sourcing and tendering activity.

### 4.6.2 Standards

Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with:

- The Act and Regulations;
- Council's Delegations and Authorisations;
- Council's Policies and Procedures;
- Other relevant legislative requirements such as, but not limited to, NSW Procurement Policy Framework, Occupational Health and Safety Act, National Competition Policy, and the Environmental Protection Act.

### 4.6.3 Methods of Procurement

The Council's standard methods for purchasing goods, services and works shall be by some or all of the following methods:

- **Petty Cash** - as a reimbursement function for minor one-off purchases;
- **Corporate Credit card** - as a preferred and efficient way of purchasing low risk and low-cost items;
- **Purchase order** - incorporating terms and conditions of Council following a quotation process;
- **Under award of contract** following a tender or quotation process;
- **Aggregated purchasing arrangements** with other Councils, LG NSW Procurement, Procurement Australia and other NSW Government Contracts in Compliance to Section 55(3) of the Local Government Act;
- **Contractor Panels, Pre-Qualification and Preferred suppliers** awarded in an Open Tender process;
- **Public Tender and Expression of Interest** – via the acquisition of goods and services for which the estimated expenditure exceeds \$250,000.00 (GST inclusive) and carrying out of works or services for which the estimated expenditure exceeds \$250,000.00 (GST inclusive) The Council may, at its discretion, conduct one stage or multi-stage tenders known as Expression of Interest Process (EOI).

### 4.6.4 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities. Accordingly, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement action for the supply of goods, services or works.

Council funds must be used efficiently and effectively to procure goods, services, works, and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this policy

### 4.6.5 Order Splitting

Order splitting with the intention of avoiding upper procurement threshold levels, is inconsistent with the objectives of this procurement policy and is prohibited.

#### 4.6.6 Trade-ins

When party to a “trade-in” on goods, the delegated level of authority should be used for the purchase price of the goods not the purchase value less the trade-in price.

#### 4.6.7 Receipt of Goods

Council will maintain procedures and training when goods, services or works and carried out along Council workflow procedures. Separation of duties will apply.

#### 4.6.8 Disposal of Council Assets

All assets to be disposed of by Federation Council should be publicly advertised for sale at a set price or by tender.

Any disposal of goods with a market value of more than \$150,000.00 (GST inclusive) via resolution of Council.

Disposal of land may only take place after resolution of Council as per section 377 of the Local Government Act (NSW) 1993

### 4.7 Procurement Thresholds and Authorisation

#### 4.7.1 Requirements

All purchases must be supported by a purchase order with the exception of those purchased by way of petty cash or corporate credit card unless other arrangements have been authorised by the General Manager on a needs basis as required by abnormal circumstances such as responding to emergencies.

#### 4.7.2 Delegations of Authority

Council shall maintain a documented scheme of procurement delegations identifying the council officers authorised to approve procurement commitment in respect of goods, services and works on behalf of Council.

#### 4.7.3 Purchasing and Quotation Requirements

The Procurement quotation requirements applicable to Federation Council are as outlined in the following table:

\$ Value (GST inclusive)	Requirement
Up to \$5,000	Minimum 1 quote required
From \$5,000 to 25,000	Minimum 2 quotes required
From \$25,001to \$250,000*	Minimum 3 quotes required
From \$150,000	Contract Register, Government Information (Public Access) Act 2009, (GIPA) requirements for public disclosure on Council Website
From \$250,000.00	Public Tender

*\* A Public Tender is not required but should be used when judged to be sufficiently advantageous to Council.*

## 4.8 Evaluation

Purchase evaluation criteria and weightings will vary according to the particular procurement under consideration. These will be provided in the purchase documents or requirements on a case-by-case basis. Evaluations will consider Price, Risk, WH&S, Quality, Value for Money, Technical Ability, Delivery Outcomes and Benefits and Local and Community factors as determined in Section 4.3.1.1 and 4.3.1.2 in this policy.

Evaluation Reports and Conflict of Interest Declarations to ensure the transparency and audit trail of the procurement and in accordance with Council's Records procedure will support all Evaluation processes of high value and high risk.

## 4.9 Exemptions of this Policy

Council is exempt from the requirement to seek tenders and quotations as detailed below:

### 4.9.1 Emergency Situation

This process aims to accommodate urgent procurement needs, while ensuring that the procurement process adopted is reasonable and conducted with appropriate consideration when:

- A state of disaster declared under the Emergency Management Act 1986 or any other emergency declaration made by the Premier;
- An incident that requires activation of Council's Business Continuity Plan;
- An incident declared by an accountable officer where the safety or security of any person or property associated with the Council is threatened and;
- An external incident to which an accountable officer has authorised the provision of urgent support.

This exemption applies only to the purchases as part of Council's immediate and required response to a critical incident, and only where adherence to existing policies would hinder the ability to effectively and appropriately respond to that incident. The General Manager, regardless of whether the expenditure exceeds financial delegation, may also provide approval.

### 4.9.2 Exemption under the Local Government Act 1993

Section 55 (3) of the *Local Government Act 1993* (NSW) provides a number of exemptions from the need for councils to call for tenders for goods and services. Council may procure under a 'prescribed entity' and in compliance under s55 of the *Local Government Act 1993* (NSW) and the *Local Government (General) Regulation 2005* (NSW).

Exemptions and alternative procurement strategies from seeking the required quotations and tenders may involve:

- Eligible Local Government, State and National Procurement Arrangements with reference to Section 55 (g);
- Section 355 of the *Act* provides that a function of council may be exercised in a number of ways. For example, a council may exercise its functions jointly by the council and another council or councils (e.g. RAMJO).

### 4.9.3 Other Exemptions

Some procurement is unique in nature. Council will develop an effective procedure to capture, authorise and provide adequate governance to ensure value for money. Examples include:

- Sole or specialist supply under \$250,000.00 (GST inclusive) based on detailed business case and most advantageous Procurement Strategy approved by the General Manger;



- Items of a unique character that standard purchasing processes (obtaining three quotes or public tender) do not apply. An example of a “unique” item purchase is the purchase of art works, specialist software, or performance of an artist or performer in a promotion of a Council financed event;
- Intellectual property or unique support from the original supplier to meet compatibility; and
- Statutory payments or Government rebates such as superannuation or worker’s compensation premiums.

#### **4.10 Records Management**

Staff are responsible for ensuring all records associated with a procurement process are completed to the standard required using designated templates and maintained in the records management system for recall and audit purposes.

#### **4.11 Internal Controls**

Council will maintain a framework of internal controls over procurement processes that ensure sufficient segregations of duties, clearly documented audit trail and appropriate authorisations and monitoring.

### **5. Procurement under Contract**

All contractual relationships must be documented and based on standard terms and conditions. Terms and conditions must be settled in advance of any commitment being made with a supplier.

#### **5.1 Dispute Resolution**

All council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalation leading to legal action.

#### **5.2 Contract Management**

The purpose of contract management is to ensure that the council, and where applicable, its clients, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract by:

- establishing a system for monitoring and achieving the responsibilities and obligations of both parties;
- Maintaining robust internal contract processes, including the utilisation of a Contracts Register to support Contract management, compliance, milestones and financial commitment;
- Means of early recognition of key issues such as variations, performance and identification of solutions.

### **6. Management of this Policy**

The General Manager has overall accountability for the procurement of goods, services and works required to support the business of the Council and is responsible for enforcing this Procurement Policy.

Council staff are to be supplied with Procurement Guidelines, Procedural documents, Intranet development, work instructions and Training in the context and compliance of this policy.

## **7. Breaches of the Policy**

All suspected breaches of this policy should, in the first instance, be reported to the relevant Supervisor or Manager who, through the relevant Director, who will actively manage the breach to comply with this policy. Breaches of this Policy will be dealt with in accordance with the Council's Discipline Procedure and Staff, Councillor Code of Conduct and any applicable legislation.

## **8. Responsibilities**

### **8.1 Council**

Council will resolve this Policy on an annual basis and commit to any other Local Government Governance requirements and the betterment of the community via Procurement in its resolutions and decision making.

### **8.2 General Manager**

The General Manager and Executive is responsible for the delegation of functions to accountable officers of Council. Responsibility for all types of goods and services appropriately delegated.

### **8.3 Staff**

All Council officers that have responsibility and commitment to Council Policy, Procedures, and ongoing workflow systems training. Officers involved in processing a requisition to purchase will confirm the authorising officer is delegated to approve request by referring to the Financial Delegations Register.

## 9. Definitions

<b>Term</b>	<b>Definition</b>
<i>The Act</i>	Local Government Act, NSW 1993.
Centre Led Procurement Model	A central procurement hub/branch is established and focuses on corporate supply chain strategies, Policy, communication, best practice and knowledge sharing, with individual areas undertake purchasing as required.
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, and process information.
Contract Management	The process that ensures both parties to a contract that fully meet their respective obligations of the contract.
Council Staff	Includes full-time and part-time Council Staff, and temporary employees, contractors and consultants while engaged by the Council.
Probity	A process able to withstand scrutiny achieving both accountability and transparency, providing tenderers with fair, consistent and equal treatment
Conflict of Interest	Personal or professional relationships where the financial gain or other interests of another party and the outcome of a Council decision may be unfairly influenced or effected.
Procurement	Procurement is defined he whole process of acquisition of external goods, services and works and spans the whole of life cycle from the initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract. It also includes the organisational and governance frameworks that underpin the procurement function.
Procurement Strategy	The most advantageous method of engaging the market. This may be determined as additional quotations being sought, A Public Tender process, or Exemption via Whole of Government arrangement under Section 55 (3).
Local Supplier	A business, contractor or industry based in, or employing staff operating from, permanent premises situated within the Federation Council LGA boundaries.
Local Content	Goods or services procured from a local supplier identified permanently trading in the Federation Council Local Government area.
Panels, Pre-Qualified Suppliers	A panel arrangement is a tool for the procurement of goods or services of typically low value and risk regularly acquired. In a Pre-qualified arrangement, suppliers are able to supply identified goods or services and have mandatory requirements that manage the level of risk and capability (level of insurances, specialist skills, licences, qualifications, capability) and also provide value for money according to the comparable financial rates.
Regulations	Local Government (General) Regulation 2005
Expression of Interest (EOI)	A response to an open approach to the market requesting submissions from bidders interested in participating in procurement. It is used to identify potential suppliers and capable of delivering the required goods or services. It is usually the first stage of a multi stage tender process e.g. selected RFQ.
Quotation/quote	A document in the form of an offer to supply goods and/or services usually in response to a request for quotation.

Tender	An offer in writing to provide goods and/or services usually submitted in response to a public or selective invitation such as a request for tender.
Tender process	The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of successful bidder or tenderer.
Request for Tender (RFT)	A request for offer against a set of clearly defined and specified requirements. Tenderers are advised of all requirements involved, including the conditions of tendering and contract conditions.
Request for Quotation (RFQ)	A written process of inviting offers to supply goods and or services involving simple documentation a limited number of potential suppliers and generally of relatively lower values.
Vendor Panel	Electronic Procurement Portal used by Council to seek and administer quotations from its pre-qualified suppliers, or an extended market place and key suppliers.

## 10. Legislative Influences

- Local Government Act 1993
- Local Government (General) Regulations 2005
- NSW Work Health and Safety Act 2011
- Chain of Responsibility (HVNL legislation)

## 11. References & Associated Documents

- NSW Procurement Policy Framework – July 2015
- NSW Government Small and Medium Enterprise and Regional Procurement Policy
- Federation Council – Code of Conduct
- Federation Council – Risk Management Framework
- Federation Council – Chain of Responsibility Policy
- Federation Council – Chain of Responsibility Procedure
- Federation Council – Delegations of Authority Part 2, Delegations from General Manager to Staff
- Federation Council – Privacy Management Plan
- Federation Council – Business Ethics Policy
- Council Policies and Guidelines in development relevant to this Procurement Policy

## 12. Policy History

Version	Date	Changes / Amendments
1.0	20/09/2016	Resolution 069/16FC - Adoption
2.0	18/07/2017	Revision
3.0	Review commenced 31/10/2018	Review completed – Council resolved 20 November 2018 to place on Public Exhibition for a minimum of 28 days and to consider the adoption of the Policy at the next available meeting.

4.0	Revision and Rewrite	Due to organisational restructure and commissioning of Procurement and Contract Management Audit Report, Public Exhibition postponed due to a revision and rewrite of Policy. Undertaken in line with Audit recommendations and staff feedback.
5.0	1/11/2019	Amendments to include:  (a) Local Government changes to Section 55 (a) (n) and (q) and:  (b) Local and community procurement considerations to be included in Policy post 22 October Council Workshop
6.0	26/10/2020	Amendments to include: <ul style="list-style-type: none"> <li>• Feedback from Managers and Directors as requested in October 2020;</li> <li>• Inclusion of GIPA and Contract Register obligations of Council in table 4.7.3 Page 7 ('Purchasing and Tendering Requirements') and Section 4.5.6 Disclosure of Information (Page 5).</li> <li>• Inclusion of Vendor Panel Definition ('Purchasing and Tendering Requirements' Section 9, Page 12) as a program to effectively assist and administer quotations sought by Council</li> </ul>

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